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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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IN RE: LICKISS, Chris P., et al.	)
	) APPEAL NO. _____
SERIAL NO: 10/627,276	)
	)
FOR: CLOTHES DRYER WITH CONTROL	)
PANEL SEAL	)
	) BRIEF ON APPEAL
FILED: July 25, 2003	)
	)
GROUP ART UNIT: 3749	)

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To the Commissioner of Patents and Trademarks  
Mail Code Appeal Brief - Patents  
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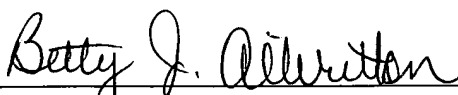
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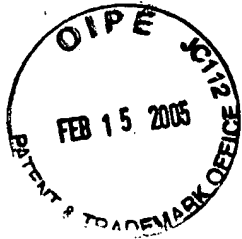
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**I. INTRODUCTION**

This is an appeal of the Final Rejection dated October 6, 2004, rejecting claims 1-25.

The appealed claims 1-25 are set forth in an attached Appendix.

**II. REAL PARTY OF INTEREST**

The real party of interest in the present appeal is the assignee, Maytag Corporation, 403 West 4<sup>th</sup> Street, P. O. Box 39, Newton, Iowa 50208-0039, by Assignment recorded on September 14, 2004 under Reel 015122, frame 0719.

**III. RELATED APPEALS AND INTERFERENCES**

None.

**IV. STATUS OF CLAIMS**

Claims 1-25 are pending, all of which are appealed.

**V. STATUS OF AMENDMENTS**

No amendments have been filed after the Final Rejection.

**VI. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 1 is directed towards a combination tumble and cabinet clothes dryer (10). (Specification, page 2, line 20). The dryer (10) comprises a housing (18) (Specification, page 2, line 26) having a tumble dryer (12) and a cabinet dryer (14) mounted therein (Specification page 2, lines 20-25). The tumble dryer (12) includes a door (16)

(Specification, page 2, lines 24-25; Figures 1 and 2), and the cabinet dryer (14) includes a door (20) (Specification, page 2, lines 26-27; Figures 1 and 2). A control panel (22) is also provided on the housing (18) to control the operation of the tumble and cabinet dryers (Specification, page 2, lines 28-30; Figures 2 and 3). The last element of claim 1 is a seal (24) on the cabinet door (20) which sealingly engages the control panel (22) when the cabinet door (20) is closed (Specification, page 3, lines 1-7; Figure 3).

Independent claim 8 is also directed towards a combination tumble and cabinet clothes dryer (10) (Specification, page 2, line 20). The dryer (10) includes a housing (18) with a tumble dryer (12) and a cabinet dryer (14) in the housing (18) (Specification, page 2, lines 20-27; Figures 1 and 2). The tumble dryer (12) includes a door (16) and the cabinet dryer (14) includes a door (20) to provide access to the respective dryers (Specification, page 2, lines 24-27; Figures 1 and 2). Claim 8 further provides for a control panel (22) on the housing (18) to control the operation of the tumble and cabinet dryers (12, 14) (Specification, page 2, lines 28-30; Figures 2 and 3). Claim 8 lastly provides that the cabinet door has an inner surface with a lip (32) to direct condensation away from the control panel (22) (Specification, page 3, lines 11-15; Figure 3).

Independent claim 14 is directed towards an appliance (10) having a housing (18) with a working area (14) within the housing (18) (Specification, page 2, lines 20-27; Figures 1 and 2). The working area (14) has a door (20) (Specification, page 2, lines 26-27; Figures 1 and 2). A control panel (22) controls operation of the appliance (10) (Specification, page 2, lines 28-30; Figures 2 and 3). The last element of claim 14 is a seal (24) on the door (20)

sealingly engaging the control panel (22) when the door is closed (Specification, page 3, lines 1-7; Figure 3).

Independent claim 20 is also directed towards an appliance (10) with a housing (18) in a working area (14) within the housing (Specification, page 2, lines 20-26; Figures 1 and 2). A door (20) is provided for access to the working area (Specification, page 2, lines 26-27; Figures 1 and 2). A control panel (22) controls the operation of the appliance (10) (Specification, page 2, lines 28-30; Figures 2 and 3). The last element of claim 20 is a lip (32) on the inner surface of the door (20) so as to direct condensation away from the control panel (22) (Specification, page 3, lines 11-15; Figure 3).

## **VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1, 2, 7, 14 and 15 have been rejected under 35 U.S.C. § 102 as being anticipated by Dhaemers. Claims 3, 4 and 16 have been rejected under 35 U.S.C. § 103 as being obvious over Dhaemers. Claims 5, 6, 8-13 and 17-25 have been rejected under 35 U.S.C. § 103 as being obvious over the combination of Dhaemers and Didlick. All of these rejections are presented for review.

Claims 1-25 have also been rejected for obviousness-type double-patenting based on Applicant's co-pending application 10/406,814. Applicant is filing simultaneously with this Brief a Terminal Disclaimer to overcome this rejection, such that this rejection is not presented for review on appeal.

## **VIII. ARGUMENT**

### **A. The § 102 Anticipation Rejection Based Upon Dhaemers is Improper.**

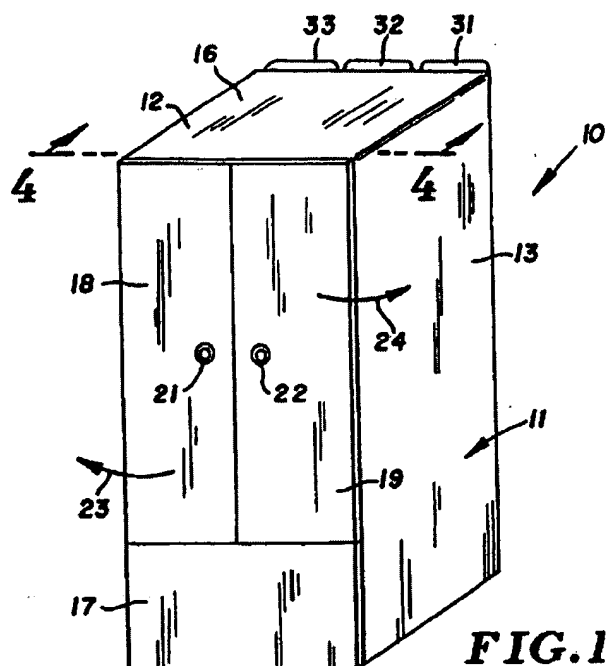
Claim 1 is directed towards a combination tumble and cabinet clothes dryer having both a tumble dryer and a cabinet dryer in the housing. The Dhaemers patent discloses a dryer which is either a cabinet dryer or a tumble dryer, but is not both at the same time. In essence, Dhaemers is a cabinet dryer which can be converted to a tumble dryer with the addition of a rotatable drum. However, upon the addition of the rotatable drum, Dhaemers is no longer a cabinet dryer, since the drum occupies the cabinet space. Therefore, Dhaemers does not meet the preamble limitations of claim 1.

Dhaemers also fails to meet the limitation of claim 1, regarding a seal on the cabinet door which sealingly engages the control panel when the cabinet door is closed. The Examiner cites the cabinet doors 18, 19 and an alleged seal 110 on the cabinet door. However, as described at column 5, line 1, the component 110 of Dhaemers is a damper or a gate, and not a seal, contrary to the Examiner's assertion. Furthermore, the damper/gate 110 of Dhaemers is located at the rear of the control area of the dryer, while the doors 18, 19 are on the front of the dryer, as seen in Dhaemers' Figures 1, 6 and 7 on the following pages. Thus, the damper/gate 110 is not on, or anywhere close to the doors 18, 19, and accordingly cannot function as a seal. Therefore, the Examiner's analysis of Dhaemers is incorrect and is fatal to the § 102 rejection.

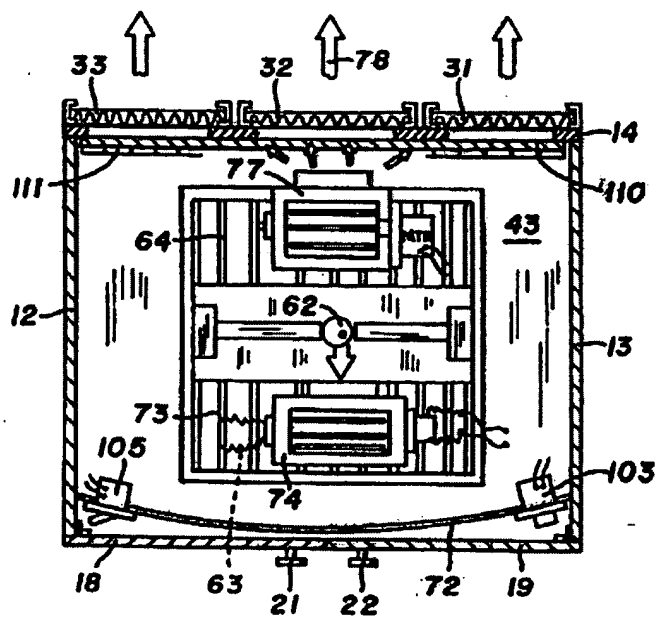
On page 5 of the December 7, 2004 Final Office Action, the Examiner asserts, "Under current office practice, claims are given their broadest reasonable interpretation in light of the

prior art." This practice is inconsistent with Federal Circuit guidelines which have long explained that claims are interpreted in view of the Specification. The Examiner further states at the bottom of page 5 that "in the primary reference [Dhaemers] the seal is on the cabinet door because it is located on top of the adjacent front control panel disclosure." The Examiner has unreasonably expanded the common, ordinary meaning of the word "on" in claim 1 so as to cover a "seal" 110 that is on the opposite rear wall from the front doors 18, 19 of Dhaemers. As the Federal Circuit has repeatedly explained, claim terms should be given their plain, ordinary meaning, unless otherwise defined in the Specification. "On" as used in claim 1 is a simple word with a simple meaning. There is no reasonable basis to support the Examiner's strained interpretation of "on".

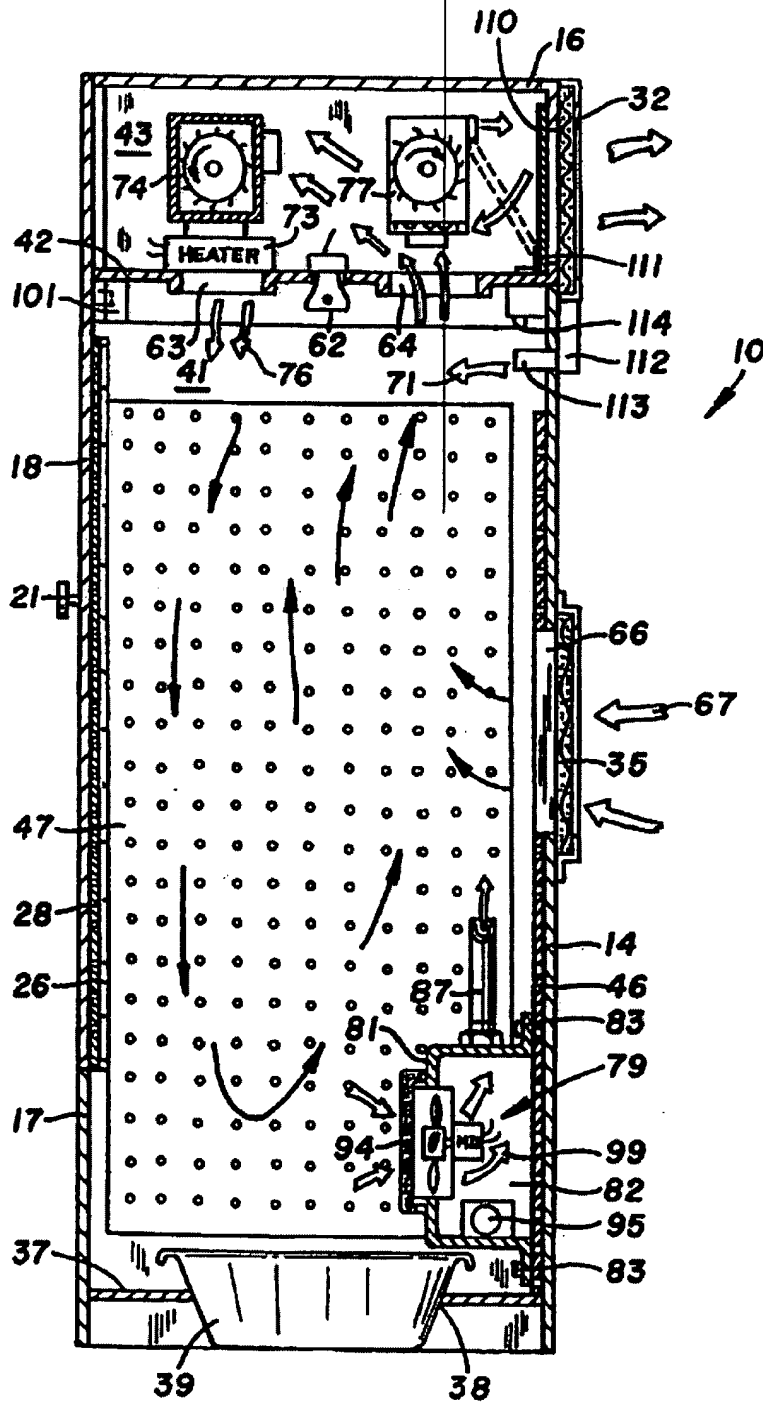
Accordingly, the § 102 rejection of claim 1 should be withdrawn. Claims 2-7 depend from claim 1 and should be allowable as dependents from an allowable base claim.



Dhaemers







**FIG. 6**

Independent claim 14 is directed towards an appliance having a housing, a working area within the housing, a door to provide access to the working area, and a control panel that controls operation of the appliance. Claim 14 further provides for "a seal on the door sealingly engaging the control panel when the door is closed." As discussed above with respect to claim 1, Dhaemers does not have such a seal on the door, as required by claim 14. The component 110 of Dhaemers cited by the Examiner is not on the doors 18, 19 and is not a seal. Rather, in Dhaemers, the doors 18, 19 are on the front wall and the "seal" 110 is on the back wall, as clearly seen in Figures 6 and 7, above. Therefore, Dhaemers fails to anticipate claim 14 such that the § 102 rejection should be withdrawn. Claims 15-19 depend from claim 14 and should be allowable as depending from an allowable base claim.

**B. § 103 Obviousness Rejection Based Upon the Combination of Dhaemers and Didlick is Improper.**

Independent claim 8 is similar to claim 1 in being directed towards a combination tumble and cabinet clothes dryer having both a tumble dryer and a cabinet dryer in the housing. As discussed above with respect to claim 1, Dhaemers does not meet this limitation. The Examiner does not cite any other references to overcome this deficiency of Dhaemers. Therefore, claim 8 distinguishes over Dhaemers so as to be allowable.

Furthermore, claim 8 requires a cabinet door with a lip on its inner surface to direct condensation away from the control panel. The Examiner acknowledges that Dhaemers does not have such a lip on the inner surface of either of the doors 18, 19, but cites the Didlick patent for such a lip. The Examiner specifically cites column 3, lines 10-64 of Didlick as

teaching such a lip on the inner surface of the door. (See December 7, 2004 Final Office Action, page 3, last paragraph). However, this passage of Didlick has no reference to either a door or a lip. The only door shown in the Didlick drawings is reference numeral 1, which is discussed only in the specification at column 2, line 24. There are no drawings and no written description in Didlick regarding the inner surface of the door 1 or a lip thereon. Therefore, the Examiner's conclusion that Didlick discloses a door inner surface with a lip is unsupported and erroneous, such that the § 103 rejection is fatally flawed. Accordingly, the § 103 rejection of claim 8 must be withdrawn. Claims 9-13 depend from claim 8 and should be allowable as depending from an allowable base claim.

Independent claim 20 is directed towards an appliance with a housing and a working area therein, with a door and a control panel. Claim 20 further provides that the door have "an inner surface with a lip to direct condensation away from the control panel." As discussed above with respect to claim 8, neither Dhaemers nor Didlick teach or suggest such a lip on the inner surface of a door. The Examiner acknowledges that Dhaemers does not have such a lip and does not cite any specific structure in Didlick for such a lip. Rather, the Examiner merely cites the passage at column 3, lines 10-64 of Didlick as disclosing a lip, even though no such lip on the door is discussed or shown anywhere in Didlick. Therefore, the combination of Dhaemers and Didlick fails to meet the limitations of claim 20, which distinguishes over the references so as to be allowable. Claims 21-25 depend from claim 20 and should be allowable as depending from an allowable base claim.

**IX. CONCLUSION**

Since Dhaemers does not teach a seal on a door, the § 102 rejection of independent claims 1 and 14 should be reversed. Since Didlick does not show a lip on an inner surface of a door, the § 103 rejection is based upon the combination of Dhaemers and Didlick should be reversed.

For the above-stated reasons, it is submitted that the claims are in a condition for allowability. The decision of the Examiner, therefore, should be reversed and the case allowed.

Enclosed herein please find the Appeal Brief and required fee of \$500.00. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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## **APPENDIX - CLAIMS**

Claim 1 (Original): A combination tumble and cabinet clothes dryer, comprising:  
a housing;  
a tumble dryer mounted in the housing;  
a cabinet dryer built into the housing;  
a tumbler door for providing access to the tumble dryer;  
a cabinet door for providing access to the cabinet dryer;  
a control panel on the housing to control the operation of the tumbler and cabinet dryers; and  
a seal on the cabinet door sealingly engaging the control panel when the cabinet door is closed.

Claim 2 (Original): The dryer of claim 1 wherein the control panel includes an upright surface to provide sealing engagement with the cabinet door seal.

Claim 3 (Original): The dryer of claim 1 wherein the seal is a bulb type seal.

Claim 4 (Original): The dryer of claim 1 wherein the cabinet door includes a pair of French-style door panels.

Claim 5 (Original): The dryer of claim 1 wherein the cabinet door includes an inner surface with a lip to direct condensation away from the seal.

Claim 6 (Original): The dryer of claim 5 wherein the lip slopes inwardly to a location beyond the seal.

Claim 7 (Original): The dryer of claim 1 wherein the control panel includes a back panel to provide an interior surface of the cabinet dryer.

Claim 8 (Original): A combination tumble and cabinet clothes dryer, comprising:  
a housing;  
a tumble dryer mounted in the housing;  
a cabinet dryer built into the housing;  
a tumbler door for providing access to the tumble dryer;  
a cabinet door for providing access to the cabinet dryer;  
a control panel on the housing to control the operation of the tumbler and cabinet dryers; and  
the cabinet door having an inner surface with a lip to direct condensation away from the  
control panel.

Claim 9 (Original): The dryer of claim 8 further comprising a seal on the cabinet door sealingly engaging the control panel when the cabinet door is closed.

Claim 10 (Original): The dryer of claim 9 wherein the lip slopes inwardly to a location beyond the seal.

Claim 11 (Original): The dryer of claim 9 wherein the control panel includes an upright surface to provide sealing engagement with the cabinet door seal.

Claim 12 (Original): The dryer of claim 9 wherein the seal is a bulb type seal.

Claim 13 (Original): The dryer of claim 9 wherein the cabinet door includes a pair of French-style door panels.

Claim 14 (Original): An appliance , comprising:

a housing;

a working area within the housing;

a door to provide access to the working area;

a control panel to control operation of the appliance; and

a seal on the door sealingly engaging the control panel when the door is closed.

Claim 15 (Original): The dryer of claim 14 wherein the control panel includes an upright surface to provide sealing engagement with the cabinet door seal.

Claim 16 (Original): The dryer of claim 14 wherein the seal is a bulb type seal.

Claim 17 (Original): The dryer of claim 14 wherein the cabinet door includes an inner surface with a lip to direct condensation away from the seal.

Claim 18 (Original): The dryer of claim 17 wherein the lip slopes inwardly to a location beyond the seal.

Claim 19 (Original): The dryer of claim 14 wherein the control panel includes a back panel to provide an interior surface of the cabinet dryer.

Claim 20 (Original): An appliance , comprising:

a housing;

a working area within the housing;

a door to provide access to the working area;

a control panel to control operation of the appliance; and

the door having an inner surface with a lip to direct condensation away from the control panel.

Claim 21 (Original): The dryer of claim 20 further comprising a seal on the cabinet door sealingly engaging the control panel when the cabinet door is closed.

Claim 22 (Original): The dryer of claim 21 wherein the lip slopes inwardly to a location beyond the seal.

Claim 23 (Original): The dryer of claim 21 wherein the control panel includes an upright surface to provide sealing engagement with the cabinet door seal.

Claim 24 (Original): The dryer of claim 21 wherein the seal is a bulb type seal.

Claim 25 (Original): The dryer of claim 21 wherein the cabinet door includes a pair of French-style door panel